



State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

NOT FINAL
UNDER CMS REVIEW

March 18, 2019

Bill Brooks, Associate Regional Administrator
Division of Medicaid & Children's Health
DHHS/Centers for Medicare and Medicaid Services

ELECTRONIC TRANSMISSION ONLY

Re: Section 1812(F) Waiver Request: COVID-19

Dear Mr. Brooks:

Section 1861(i) of the Social Security Act (the Act) permits Medicare payment for skilled nursing facility (SNF) care only when a beneficiary first has an inpatient hospital stay of at least 3 consecutive days. Section 1812(f) of the Act allows Medicare to pay for SNF services without a 3-day qualifying stay if the Secretary of Health and Human Services finds that doing so will not increase costs or change the essential acute-care nature of the SNF benefit. Louisiana contends that an 1812(f) waiver of the Medicare payment requirement for a 3-day inpatient hospital stay prior to admission to SNF care for beneficiaries affected during COVID-19 in Louisiana would not increase costs to the Medicare program and would not change the essential acute-care nature of the Medicare SNF benefit. Therefore, Louisiana requests that SNF care without a 3-day inpatient hospital stay be covered for beneficiaries (1) discharged or transitioned from a hospital (in the emergency or receiving locations) in order to provide care to more seriously ill patients, or (2) who need SNF care as a result of the emergency, regardless of whether that individual was in a hospital or nursing home.

In addition, under the special circumstances, Louisiana requests dispensation for beneficiaries who, prior to the COVID-19 public health emergency declaration, had been recently discharged from an SNF after utilizing some or all of their available SNF benefit days. Existing Medicare regulations state that these beneficiaries cannot receive additional SNF benefits until they establish a new benefit period (i.e., by breaking the spell of illness by being discharged to a custodial care or non-institutional setting for at least 60 days). Louisiana asserts that coverage of SNF care

without requiring a break in the spell of illness only for beneficiaries affected during the COVID-19 declaration would not increase costs to the Medicare program and would not change the essential acute-care nature of the Medicare SNF benefit. Therefore, Louisiana requests authority under section 1812(f) of the Act to provide coverage for extended care services which will not require a new spell of illness in order to renew provision of services by a SNF so that beneficiaries can then receive up to 100 days of SNF Part A coverage for care needed as a result of COVID-19.

This policy will apply only for those beneficiaries who:

- need SNF care for treatment during the COVID-19 public health emergency or
- were in the process of "breaking the spell of illness" for a prior SNF Part A stay, and would not normally be eligible for additional SNF Part A benefits

Thank you for your consideration of this request. If you have any questions or concerns, you may contact Jen Katzman, Medicaid Deputy Director at Jennifer.katzman@la.gov or (225) 936-0843 in my office.

Sincerely,

Erin Campbell
Acting Medicaid Director

Cc: Jackie Glaze
Tobias Griffin

EC/jlk